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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/796,006	03/10/2004	Jung-Shih Chang	CHANG193	2656
1444	7590	11/01/2004	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C.			GRAHAM, MARK S	
624 NINTH STREET, NW				
SUITE 300			ART UNIT	
WASHINGTON, DC 20001-5303			PAPER NUMBER	
			3711	

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,006

Applicant(s)

CHANG, JUNG-SHIH

Examiner

Mark S. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Peng. As disclosed by Peng it is known in the art to use fiber-reinforced plastic materials in constructing such cores. It would have been obvious to one of ordinary skill in the art to have used such as Johnson's core as well to lighten the bat.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Miller. Johnson discloses the claimed device with the exception of the foam handle portion. However, as disclosed by Miller it is known in the art to use foam handle portions. It would have been obvious to one of ordinary skill in the art to have used such on Johnson's bat to provide a good grip.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson. Anderson discloses that both his core portion and his covering member may be made of metal or plastic and are connected by connecting means 11. It would have been obvious to one of ordinary skill in the art to have used a metal core and plastic covering member if that provided the hitting effect desired by the user.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hillerich, III et al. (Hillerich). Johnson discloses the claimed device with the

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exception of the fiber-reinforced protecting layer. It would have been obvious to one of ordinary skill in the art to have provided such with Johnson's bat as well to better protect it.

Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Ryan, Moose, Uke, Chen, Hayazaki, Becker, Owen et al., Shroyer, Jr., Chohan, Handy et al., Baum, and Tribble have been cited for interest because they disclose similar bats.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
10/28/04



Mark S. Graham
Primary Examiner
Art Unit 3711